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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,899	02/05/2004	Steven Ginsberg	PC20008A	5352

7590 11/28/2006

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

Office Action Summary	Application No. 10/772,899	Applicant(s) GINSBERG ET AL.	
	Examiner Luan K. Bui	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-23, 31-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Prosecution Application

1. The Request for Continued Examination (RCE) filed on 11/1/2006 under 37 CFR 1.114 based on parent Application No. 10/772,899 is acceptable and a RCE has been established. An action on the RCE follows.

Terminal Disclaimer

2. The terminal disclaimer filed on 9/27/2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,708,826 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 21-23 and 31-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 21 and 22, the phrase “for holding a single dose of the personal care product that is in a film dosage form” is inaccurate and indefinite because it should be each packet for holding a single dose. The phrases “the pouch portion” (many places) and “the tab portion” in claims 21 and 22, “each sheet” in claim 31 and “the tray” in claim 22 lack proper antecedent basis. The phrases “the dose is held” in claim 23 and “the personal care product comprises ...” in claim 32 define the packaged in reference to individual doses of personal care product” which is undefined and has not been positively claimed rendering the

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claims vague and indefinite because it is not clear what structural limitations applicant intends to encompass with such language.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 22, 23, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Boettger (5,259,499). To the extent that the Examiner can determine the scope of the claims, Boettger discloses a packaged (10) comprising a plurality of substantially identical packets (10-14) uniformly stacked in a non-staggered arrangement and a retention means (48, 50) for releasably holding the stacked packets in a bag book (16). The topmost packet of the stack is sufficiently exposed that its front edge (24-26) can be gripped. Each packet of Boettger is inherently capable of holding the personal care product comprises a water soluble film that contains a pharmaceutically active substance.

As to claim 23, Boettger further discloses each packet is comprised of two flexible sheets (18, 20) that are partially laminated together so as to define a closed pocket.

As to claim 33, Boettger also discloses the bag book may be secured to a drawer or cabinet/container (column 4, lines 22-27).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boettger (5,259,499) in view of Niwa (5,613,779). Boettger discloses the packaged (10) as above having all the limitation of the claim except for each sheet comprises a boundary zone and being comprised of material that more easily to tear. Niwa shows a packet (104) comprising two flexible sheets (103a, 103b) with each including a boundary zone (4) and an easily tear portion (3). It would have been obvious to one having ordinary skill in the art in view of Niwa to modify the packets of Boettger so each sheet of the packet comprises an easily tear portion in lieu of an releasable locking mechanism (26) of Boettger for better protecting the product disposed within the packet.

9. Claims 21 and 33 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Boettger (5,259,499) in view of Batchelor (4,889,238). To the extent that the Examiner can determine the scope of the claims, Boettger discloses a packaged (10) comprising a plurality of substantially identical packets (10-14) uniformly stacked in a non-staggered arrangement and a retention means (48, 50) for releasably holding the stacked packets in a bag book (16). Boettger further discloses the bag book may be secured to a drawer or cabinet/tray or container (column 4, lines 22-27). When the bag book

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disposed within the cabinet and the cabinet always including a cover. To the extent Boettger fails to show a container to receive the stack as in claim 33 or the container comprises a tray and a cover as recited in claim 21, Batchelor teaches a container (20) for holding a stack of packets (50) comprising a tray (23) and a cover (22) is movably connected to the tray (Figure 10). It would have been obvious to one having ordinary skill in the art in view of Batchelor to modify the package of Boettger so it comprises a container includes a cover connected to a tray for receiving the stack of the packets for better protecting the packets during storage and/or transportation.

10. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 33 above, and further in view of Velch (5,630,546). The packaged of Boettger as modified further fails to show container comprises two ends, a fixed cover that covers one container end and a free edge and a movable cover being hingedly connected to the container. Velch teaches a container (6) comprising a tray (20), a fixed cover (28) that covers one end of the container and a movable cover (38) hingedly connected to the container. It would have been obvious to one having ordinary skill in the art in view of Velch to modify the packaged of Boettger as modified so the container comprises two ends, a fixed cover that covers one container end and a free edge and a movable cover is hingedly connected to the container to prevent the packets from falling out of the container.

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Response to Arguments

Applicant's arguments with respect to 11/1/2006 have been considered but are deemed to be moot in view of the new grounds of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb
November 22, 2006


Luan K. Bui
Primary Examiner
Art Unit 3728